



State of Ohio Environmental Protection Agency

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May 10, 2007

Mr. David Olson
U.S. Army Corps of Engineers
Attn: CECW-CO
441 G Street NW
Washington, DC 20314-1000

Re: Reissuance of Nationwide Permits

Dear Mr. Olson:

I am writing this letter pursuant to the final notice of reissuance of the Nationwide Permits (NWP) published in the Federal Register (volume 72, number 47) on March 12, 2007.

This notice initiated a sixty (60) day period during which the states are required to complete their section 401 water quality certification of the NWPs. The 60 day period ends on May 11, 2007. The notice also indicates that should the states fail to act on the request for certification within this time period, the U.S. Army Corps of Engineers (Corps) will consider the certification of the NWPs waived.

Within the State of Ohio, all 401 water quality certifications are subject to the state's Antidegradation Rule. The State of Ohio Antidegradation Rule requires a lengthy public involvement process, which in this circumstance, translates into a 45 public notice period followed by a public hearing. The Ohio EPA will then produce a responsiveness summary based on the comments received. The certification process I described has been initiated by my staff in the Division of Surface Water but it will not be completed prior to May 11.

Because the Corps' failed to finalize its Nationwide Permits in a timely fashion relative to the termination of the former Nationwide Permits and further because the sixty day period set forth in the Corps' rule for the certification of the new Nationwide Permits is an insufficient amount of time for the State of Ohio to complete its antidegradation process, the State of Ohio denies, at this time, a water quality certification on the Nationwide permits which were effective on March 19, 2007.

Until such time as the State of Ohio issues a certification to the Nationwide permits, entities will be required to obtain an individual 401 water quality certification or a waiver

Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

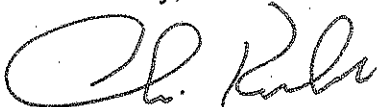
of certification. Once Ohio has completed its antidegradation process, Ohio EPA will act on a certification relative to the Nationwide Permits.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00 which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
309 South Fourth Street, Room 222
Columbus, OH 43215

If you have any questions regarding this matter, they can be directed to Randy Bournique in the Division of Surface Water at (614) 644-2013.

Sincerely,

A handwritten signature in dark ink, appearing to read "Chris Korleski", written in a cursive style.

Chris Korleski,
Director

cc: Ginger Mullins, Regulatory Branch Chief, Huntington District
Mike Cummings, Regulatory Branch Chief, Pittsburgh District
Tom Switala, Regulatory Branch Chief, Buffalo District
Jim Townsend, Regulatory Branch Chief, Louisville District